

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
City of Custer, Oklahoma)	Call Sign WQX266
)	
Request for Waiver of Section 1.946 of the)	
Commission's Rules)	

ORDER

Adopted: January 13, 2021**Released: January 13, 2021**

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

1. On December 26, 2019, the Universal Licensing System (ULS) sent the City of Custer (Custer or the City) notice of license termination for components of its station WQX266 due to the City's failure to meet construction and construction notification requirements.¹ On February 3, 2020, the City filed a Petition for Reconsideration.² For the reasons provided below, we dismiss the Petition as untimely.

2. Section 1.106(f) of the Commission's rules requires that a petition for reconsideration "shall be filed within 30 days from the date of public notice of the final Commission action..."³ The City did not file its Petition until February 3, 2020, six days after the deadline. Because the Petition does not meet the requirements of section 1.106(f), we must dismiss it as untimely.⁴

3. If the City desires to continue operating under the parameters formerly set forth under call sign WQX266, Location 3, 154.055 MHz and Location 4, 154.055 MHz and 159.345 MHz, it must file a new, properly coordinated application. In addition, if the City needs to operate while the application is pending with the Commission, it must immediately file a request for special temporary authority in accordance with section 1.931 of the Commission's rules.⁵

4. Accordingly, IT IS ORDERED, pursuant to the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), section 1.106 of the Commission's Rules, 47 CFR §1.106, and Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a), that the Petition for Reconsideration filed by the City of Custer, Oklahoma on February 3, 2020, IS DISMISSED.

¹ See Auto Termination Letter, Reference Number: 6602792 (dated Dec. 26, 2019) (Auto Termination Letter). The components at issue are Location 3, 154.055 MHz and Location 4, 154.055 MHz and 159.345 MHz. As a condition of its authorization, the Commission's rules required the City to construct these locations by Nov. 20, 2019. 47 CFR § 1.946.

² Petition for Reconsideration filed February 3, 2020 by the City of Custer (Petition).

³ 47 CFR §106(f).

⁴ 47 CFR § 1.106(f) is based on Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a). Other than in circumstances not present here, this statutory requirement cannot be waived. See *Reuters Ltd. v. FCC*, 781 F.2d 946, 951-952 (D.C.Cir.1986).

⁵ See 47 CFR § 1.931.

5. This action is taken under delegated authority pursuant to sections 0.191 and 0.392 of the Commission's Rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau